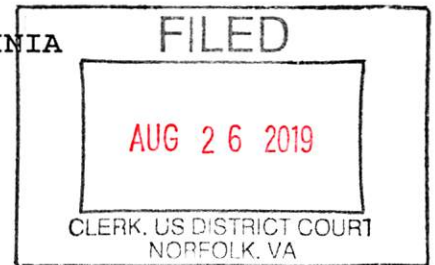


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



WESLEY COOPER, #1455961,

Petitioner,

v.

CIVIL ACTION NO. 2:18cv464

HAROLD CLARKE,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and an addendum to the petition. ECF Nos. 1, 3. Petitioner Wesley Cooper is a state prisoner convicted in the Circuit Court for the City of Chesapeake for various offenses, including felon in possession of a firearm and multiple counts of use of a firearm in the commission of a felony. ECF No. 1 at 1, 17; ECF No. 9-2 at 1. He is currently serving an active prison term of 28 years. ECF No. 1 at 1.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. In the Magistrate Judge's Report and Recommendation

filed July 10, 2019, the Court found that the petition was barred by the statute of limitations in the Anti-Terrorism and Effective Death Penalty Act ("AEDPA"), 28 U.S.C. § 2244(d), and there was no cause, miscarriage of justice, or actual innocence claim to justify equitable tolling. ECF No. 12 at 11-19. The report recommends that the Respondent's motion to dismiss, ECF No. 7, be granted, and that Cooper's petition for a writ of habeas corpus be denied and dismissed with prejudice.

Cooper filed objections to the Report and Recommendation on July 26, 2019. ECF No. 13. The Court, having reviewed the record and examined the objections filed by Cooper to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation. It is, therefore, **ORDERED** that Respondent's motion to dismiss is **GRANTED**, and the petition for a writ of habeas corpus is **DENIED** and **DISMISSED** with prejudice.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a

substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.

/s/ 

Mark S. Davis
CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
August 23, 2019